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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/879,247
Filing Date: June 07, 2001
Appellant(s): STAPPERS, PIETER JAN

Richard J. Katz
Reg. No. 47,698
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9 November 2006 appealing from the Office action

mailed 30 March 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

MacCuish, John. "Interactive Layout Mechanisms for Image Database Retrieval". SPIE, vol. 2656 (29 January 1996), pp. 104-115

6,219,053	Tachibana et al.	4-2001
5,757,358	Osga	5-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacCuish

(SPIE, 1/29/1996, v. 2656, pp. 104-115), Tachibana et al (U.S. Patent No. 6,219,053),

hereinafter Tachibana, and Osga (US Patent 5,757,358).

In regards to claims 1, 2, 5, and 6, Applicant has disclosed the layout mechanism of

MacCuish as being an electronic database search engine with an electronic memory device

suitable for storing and releasing elements from the database, a display unit, a user interface for

the selection and control of elements on the display unit, and iconic interface control means

where icons are at mutual distances from one another depending on degrees of dissimilarity.

MacCuish's method and device display some icons on the display unit at initial utilization.

MacCuish fails to teach the use of the control means to select a position on the display

unit that upon selection displays or removes an icon related to a database element where its

degree of dissimilarity to other icons corresponds with the distances between the icons.

MacCuish also fails to teach the mutual positioning of icons on the display in concurrence with

the dissimilarity of the elements from the database in order to optimize the usable display area

on the display unit.

Tachibana et al do teach the use of the control means to select a position on the display unit that upon selection displays or removes an icon related to a database element where its degree of dissimilarity to other icons corresponds with the distances between the icons. (Column 2, Lines 42-52) and the mutual positioning of icons on the display in concurrence with the dissimilarity of the elements from the database in order to optimize the usable display area on the display unit (Column 1, Lines 1-5).

Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to combine the teachings of MacCuish and Tachibana et al to obtain an electronic database search engine with iconic display wherein correlated icons are separated at distances based on their dissimilarity and are spaced as to optimize the usable display area on the display unit.

One would be motivated to make such a combination for the advantage of easily viewing the correlations between objects based on their display position.

However, although MacCuish and Tachibana teach the display or removal of an icon related to a database element upon the selection of that icon's position, the references fail to explicitly teach the display or removal of an icon related to a database element upon the selection of an arbitrary position on the display.

Osga teaches a method and apparatus for the selection of computer-displayed objects similar to that of MacCuish and Tachibana. Furthermore, Osga teaches the selection and manipulation of an object on the display based on the selection of an arbitrary position by the user, based on the distance of a cursor to an object, as shown at col. 4, lines 40-53.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of MacCuish, Tachibana, and Osga before him at the time the invention was made to modify the iconic display of a database search engine of MacCuish and Tachibana to include

the arbitrary position selection of Osga, in order to obtain an iconic display capable of selecting

on screen elements through arbitrary position selection.

One would be motivated to make such a combination for the advantage of reducing

cursor travel distance to a selectable object, therefore optimizing the selection of an icon by a

user. See Osga, col. 2, lines 43-53.

In regards to claims 3 and 7, Tachibana et al disclose a means for placing an icon in the

center of the display unit, while the remaining displayed icons are grouped around the centered

icon (Column 16, Lines 62-67 and Column 17, Lines 1-4).

In regards to claims 4 and 8, Tachibana et al teach the addition of characteristics

involved in determining an element's degree of dissimilarity (Column 16, Lines 5-9) and

adjustable assessment of the dissimilarities of elements (Column 17, Lines 42-46).

(10) Response to Argument

In response to appellant's argument of pages 4-5 of the brief, that Tachibana fails to

teach "an arbitrary position ... selected on the display unit" and the display of "the degree of

dissimilarity, in respect of the elements whose corresponding icons are displayed elsewhere on

the display unit", the examiner respectfully disagrees.

First, the examiner would like to note that the Tachibana reference has not been relied

upon in the rejection of the claims to teach "an arbitrary position ... selected on the display unit".

Rather, Tachibana has been shown to teach only the use of a control means to select a position

on the display where an icon already exists, and subsequently transforming that icon into the

root node. See col. 16, line 44 through col. 17, line 4. The Osga reference has been included

to teach the selection of any arbitrary position on the display and associating that selection with

a displayed element. The examiner contends that a combination of Tachibana and Osga would result in a hierarchal node display wherein a node may be selected by user manipulation of an arbitrary point on the display.

Furthermore, while Tachibana teaches the display of nodes based on hierarchal order, the MacCuish reference has been cited to explicitly teach the display of "the degree of dissimilarity, in respect of the elements whose corresponding icons are displayed elsewhere on the display unit", as shown in the above rejection.

In response to appellant's argument of page 6 that Osga fails to teach the display of icons at positions selected by a control means, where the distance of the icons on the display unit corresponds with the degree of dissimilarity of the database elements, the examiner respectfully disagrees.

The examiner would like to note that the Osga reference has not been relied upon to teach the limitation, "the distance of the icons on the display unit corresponds with the degree of dissimilarity of the database elements". The Osga reference has been incorporated into the rejection of the claims to teach the selection of any arbitrary position on a display and relating that selection to a displayed element. Furthermore, the Tachibana reference has been incorporated to teach the display of icons based on positions selected by a control means, with the Osga reference again incorporated to teach the association of an arbitrarily selected position with a displayed element.

In response to appellant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Therefore, the examiner maintains the rejection of claims 1-8 over MacCuish,
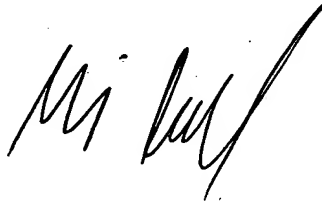
Tachibana, and Osga.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related

Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Michael Roswell

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